

## **§ 385.501**

(5) If a request for administrative review is referred to an administrative law judge, the recommended decision of the administrative law judge becomes the final decision of the Chief Safety Officer 45 days after service of the recommended decision is served, unless either the motor carrier or the Office of the Chief Counsel submits a petition for review to the Chief Safety Officer (and serves a copy of its petition on the other party) within 15 days after service of the recommended decision. In response to a petition for review of a recommended decision of an administrative law judge:

(i) The other party may submit a written reply within 15 days of service of the petition for review.

(ii) The Chief Safety Officer may adopt, modify, or set aside the recommended decision of an administrative law judge, and may also remand the petition for review to the administrative law judge for further proceedings.

(6) The Chief Safety Officer will issue a final decision on any request for administrative review when:

(i) The request for administrative review has not been referred to an administrative law judge;

(ii) A petition for review of a recommended decision by an administrative law judge has not been remanded to the administrative law judge for further proceedings; or

(iii) An administrative law judge has held further proceedings on a petition for review and issued a supplementary recommended decision.

(7) The decision of the Chief Safety Officer (including a recommended decision of an administrative law judge that becomes the decision of the Chief Safety Officer under paragraph (c)(5) of this section) constitutes final agency action, and there is no right to further administrative reconsideration or review.

(8) Any appeal of a final agency action under this section must be taken to an appropriate United States Court of Appeals. Unless the Court of Appeals issues a stay pending appeal, the final agency action shall not be suspended while the appeal is pending.

[69 FR 39367, June 30, 2004, as amended at 72 FR 55701, Oct. 1, 2007]

## **49 CFR Ch. III (10–1–11 Edition)**

### **Subpart F—Intermodal Equipment Providers**

SOURCE: 73 FR 76819, Dec. 17, 2008, unless otherwise noted.

#### **§ 385.501 Roadability review.**

(a) FMCSA will perform roadability reviews of intermodal equipment providers, as defined in § 390.5 of this chapter.

(b) FMCSA will evaluate the results of the roadability review using the criteria in appendix A to this part as they relate to compliance with parts 390, 393, and 396 of this chapter.

#### **§ 385.503 Results of roadability review.**

(a) FMCSA will not assign a safety rating to an intermodal equipment provider based on the results of a roadability review. However, FMCSA may cite the intermodal equipment provider for violations of parts 390, 393, and 396 of this chapter and may impose civil penalties resulting from the roadability review.

(b) FMCSA may prohibit the intermodal equipment provider from tendering specific items of intermodal equipment determined to constitute an “imminent hazard” (See § 386.72(b)(1) of this chapter).

(c) FMCSA may prohibit an intermodal equipment provider from tendering any intermodal equipment from a particular location or multiple locations if the agency determines the intermodal equipment provider’s failure to comply with the FMCSRs constitutes an imminent hazard under § 386.72(b)(1).

### **Subpart G [Reserved]**

### **Subpart H—Special Rules for New Entrant Non-North America-Domiciled Carriers**

SOURCE: 73 FR 76491, Dec. 16, 2008, unless otherwise noted.

#### **§ 385.601 Scope of rules.**

The rules in this subpart govern the application by a non-North America-domiciled motor carrier to provide